

REMARKS

Final Office Action

The final Office Action (1) rejected claims 1, 15, 29, 43, and 57 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement; and (2) rejected claims 1-61 under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,068,797 to Sansone et al. ("Sansone") in view of U.S. Patent Application Publication No. 2002/0032573 to Williams et al. ("Williams"), and further in view of U.S. Patent No. 5,072,401 ("Sansone '401") and U.S. Patent No. 5,043,908 ("Manduley").

Rejection of Claims 1, 15, 29, 43, and 57 under 35 U.S.C. § 112

Applicants respectfully traverse the rejection of claims 1, 15, 29, 43, and 57 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The final Office Action alleges that the following recitations in claim 1 (with similar recitations in claims 15, 29, 43, and 57) are not supported by the original disclosure:

monitoring, in real time, mail delivery on the determined routes after the mail items are assigned, wherein real time monitoring the mail delivery includes:

receiving real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes, wherein the real time update information relates to at least one of the routes for delivery and a capacity of the delivery carriers.

Final Office Action, pp. 2-3. Specifically, the final Office Action alleges that "Applicant's specification in paragraphs [045], [063], [073] and [087] only has support for the delivery and monitoring of trays or containers and not individual mail items." *Id.*, p. 3.

Applicants traverse this rejection because his characterization of the specification is incorrect, and even if it were correct, it does not support the rejection of claims 1, 15, 29, 43, and 57 under 35 U.S.C. § 112, first paragraph.

Regarding the rejection with respect to the exact language of the claims, claim 1 recites, “monitoring, in real time, mail delivery on the determined routes . . . wherein real time monitoring the mail delivery includes . . . and dynamically reassigning . . . based on the . . . information received . . . during real time monitoring the mail delivery,” (emphasis added). (Claims 15, 29, 43, and 57 recite similar features). Thus, claim 1 expressly recites monitoring mail delivery, and this recitation is clearly supported by the specification at paragraphs [045], [063], [073] and [087], among other places. Accordingly, it does not matter whether or not “Applicant’s specification in paragraphs [045], [063], [073] and [087] only has support for the delivery and monitoring of trays or containers and not individual mail items” (as the Office Action alleges at page 3), because the claims do not recited “delivering individual mail items,” and the claims do not recite “monitoring individual mail items.”

Moreover, one of ordinary skill in the art, after reading the specification and studying the drawings, would clearly understand that delivering and monitoring trays of mail, containers of mail, or mail items, are specific exemplary ways to monitor mail delivery. Further, one of ordinary skill in the art would appreciate that when individual mail items are transported during mail delivery, they are typically placed in trays and/or containers. This amply indicates to one of ordinary skill that at the time the application was filed, the Applicants had possession of the invention recited in claim 1.

As the basis for the § 112, first paragraph, rejection of claims 1, 15, 29, 42, and 57, the Office Action improperly seeks to require certain, specific words or language in the specification that recites “delivery and monitoring . . . of individual mail items.” But, this is not a legitimate basis for the § 112, first paragraph rejection. “The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” M.P.E.P. § 2163.02.

For at the least the foregoing reasons, the specification fully supports “monitoring, in real time, mail delivery,” which are the words recited in claim 1 (and similar features recited in claims 15, 29, 43, and 57), and the 35 U.S.C. § 112, first paragraph, lacks proper legal foundation. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 112, first paragraph, rejection of claims 1, 15, 29, 43, and 57.

Rejection of Claims 1-61 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1-61 under 35 U.S.C. § 103(a) because a *prima facie* case of obviousness has not been established with respect to these claims.

To establish a *prima facie* case of obviousness, the final Office Action must, among other things, properly determine the scope and content of the prior art and properly ascertain the differences between the claimed invention and the prior art. See M.P.E.P. § 2144.08(II)(A). Furthermore, the final Office Action must make findings with respect to all of the claim limitations and must make “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” See *Id.* §§ 2143.03 and 2141(III).

Independent claim 1 recites a method of managing delivery carriers, the method including, among other things, the following features:

monitoring, in real time, mail delivery on the determined routes after the mail items are assigned, wherein real time monitoring the mail delivery includes:

receiving real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes, wherein the real time update information relates to at least one of the routes for delivery and a capacity of the delivery carriers; and

dynamically reassigning the mail items to different delivery carriers based on the real time update information received from the delivery carriers during real time monitoring the mail delivery.

The final Office Action admits that “Sansone does [not]¹ specifically disclose” “monitoring, in real time, mail delivery . . . [which] includes: receiving real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes . . . ,” as recited in claim 1. Final Office Action, p. 5. The final Office Action also admits that Sansone ‘401 “does not specifically disclose the limitations above per se.” *Id.* The final Office Action does not allege that Williams discloses “monitoring, in real time, mail delivery . . . [which] includes: receiving real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes” Indeed, Williams does not disclose the above features.

The final Office Action relies on Manduley to allegedly teach the above features. Specifically, the final Office Action refers to Manduley’s Figs. 6-9 and col. 2, lines 55-67, and col. 3, lines 1-8 for its cited teaching of “continuous monitoring of the mail piece

¹ The final Office Action states that “Sansone does specifically disclose . . . however” Applicants believe that the final Office Action meant to state that “Sansone does not specifically disclose . . . however . . . ,” and that it is a typographical error to omit the word “not.”

through the system, station workloads, and resource utilization.” Final Office Action, p.

6. Applicants disagree with the final Office Action’s contentions at least because they mischaracterize the scope and content of the Manduley reference.

Specifically, Manduley discloses tracking mail pieces by monitoring the arrival time of the mail pieces at a station in order to reduce or avoid theft or loss of mail pieces. Manduley, col. 2, lines 19-54. Manduley also discloses that “a database is maintained at the data center which by polling of the various stations along the routes, or by inputs from the stations when the mail piece arrives, automatically keeps current track of the mail piece along its route” (emphases added). Manduley, col. 2, lines 56-60. Thus, Manduley teaches that what it calls “continuous monitoring of the mail piece flow through the system” is actually information-gathering that is conducted only when the mail pieces arrive at a station.

Manduley’s station-by-station monitoring is neither “continuous” nor “in real time.” Manduley’s monitoring is not continuous because there is no monitoring between stations, which means there are large gaps of time and space in which the location of Manduley’s mail pieces are unknown. Manduley’s monitoring is not “in real time,” as recited in claim 1, for the same reasons. Manduley’s station-by-station monitoring does not “receiv[e] real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes” (as recited in claim 1) because Manduley’s information comes from “inputs from the stations when the mail piece arrives” (Manduley, col. 2, lines 56-60), not from the delivery carrier. Moreover, Manduley’s station-by-station monitoring system gathers only information about the arrival of a mail piece at a station, not “real time update information [that] relates to at

least one of the routes for delivery and a capacity of the delivery carriers,” as recited in claim 1. Manduley’s system does not keep track of route information or carrier capacity information.

Thus, contrary to the final Office Action’s contentions, Manduley’s so-called “continuous monitoring” of the mail pieces is significantly different from “monitoring, in real time, mail delivery,” as recited in claim 1. Moreover, Manduley’s system operates in a significantly different way to achieve a significantly different purpose. As a result, even if Manduley is combined with Sansone, Williams, and Sansone ‘401, which the final Office Action admits do not disclose the above-quoted features of claim 1, the suggested combination would not result in the claimed invention.

Regarding the feature “dynamically reassigning the mail items to different delivery carriers based on the real time update information received from the delivery carriers during real time monitoring the mail delivery,” as recited in claim 1, the final Office Action admits that Sansone, Williams, and Sansone ‘401 do not specifically disclose this feature. See final Office Action, p. 6. The final Office Action relies on Manduley’s teaching of “continuous monitoring and the up-to-the-minute information on the state of the delivery system” for this feature. *Id.*, p. 7. As discussed above, this reliance is misplaced because Manduley’s “continuous monitoring” does not teach or suggest, and is in fact significantly different from, the feature “monitoring, in real time, mail delivery . . . [which] includes: receiving real time update information from the delivery carriers while the mail items are being delivered on the predetermined routes, wherein the real time update information relates to at least one of the routes for delivery and a capacity of the delivery carriers,” as recited in claim 1. Because Manduley does

not disclose this feature, it follow that Manduley (even when combined with Sansone, Williams, and Sansone '401), cannot disclose "dynamically reassigning the mail items to different delivery carriers based on the real time update information received from the delivery carriers during real time monitoring the mail delivery," as recited in claim 1 (emphases added).

For at least the foregoing reasons, Sansone, Williams, Sansone '401, and Manduley, whether taken alone or in combination, fail to teach or suggest the features of claim 1, and the final Office Action incorrectly determined the scope and content of the prior art. Moreover, the undisclosed features represent significant nonobvious gaps between the claimed invention and the prior art. Therefore, a *prima facie* case of obviousness has not been established for claim 1, and it is allowable over the cited references. Similarly, dependent claims 2-14 and 58 are also allowable, at least by virtue of their dependence from claim 1, as well as by virtue of reciting additional features not taught or suggested by the cited references.

Although of different scope, each of independent claims 15, 29, 43, and 57 includes similar features as those recited in amended claim 1. For at least the same reasons claim 1 is allowable, each of independent claims 15, 29, 43, and 57 is also patentable over the cited references, and thus, is allowable. Similarly, dependent claims 16-28, 30-42, 44-56, and 59-61 are also allowable, at least by virtue of their respective dependence from independent claims 15, 29, and 43, as well as by virtue of reciting additional features not taught or suggested by the cited references. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1-61.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration of this application and timely allowance of the pending claims.

The final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants declines to automatically subscribe to any statements in the final Office Action.

Please grant any additional extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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